HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A No.1636 of 2004
Date of decision : 13.3.2007

Resham Singh s/o Rana Singh .....Appellant

versus

Resham Singh s/o Chamba Singh .....Respondent

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.P.K.Goklaney, Advocate for the appellant.
Mr.S.S.Virk, Advocate for the respondent.

* * *

ORDER

HEMANT GUPTA, J.

The defendant is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby suit for specific performance of the agreement dated 25.7.1995, was decreed.

Vide aforesaid agreement, the defendant agreed to execute the sale deed in respect of 16 kanals of land @ Rs.65,000/- per acre. A sum of Rs.1,09,000/- was paid as earnest money and balance amount was agreed to be paid at the time of execution of the sale deed i.e. 30.10.1995. To prove the execution of the agreement Exhibit P-1, the plaintiff has examined Harbans Singh-PW-4, scribe of the agreement, Sodha Singh PW-2 and Krishan Singh PW-5, marginal witnesses of the agreement.

On the basis of aforesaid statements, it was found that the plaintiff entered into an agreement of purchase of the aforesaid land and paid a sum of Rs.1,09,000/- as earnest money. It was also found that the plaintiff was ready and willing to perform his part of the contract, on the basis of Exhibit P-3 vide which the plaintiff got his presence marked before the Sub Registrar. It was also found that the date of presence as 27.5.1995 is typed by mistake instead of 25.7.1995. PW-3 Amar Lal-Registration Clerk has identified the signatures of the Sub Registrar on the aforesaid application Exhibit P-3.

Learned counsel for the appellant has vehemently argued that the agreement, Exhibit P-1 is in fact forged document as the defendant-appellant has signed some blank papers at the time of availing of loan. Such argument has been considered by the learned First Appellate Court wherein it has been found that even in the written statement, the defendant has not stated that how much loan was taken from the plaintiff and why he signed the blank papers. DW-2 Bachan Singh has not supported the stand of the defendant as he has deposed that the rate for the sale of the land in dispute is much higher than the rate agreed upon between the parties. Therefore, the stand of the appellant has been rightly not believed by the learned Courts below.

The findings of fact recorded by the Courts below are sought to be disputed by re-appreciation of evidence. Both the Courts below have believed the evidence of the plaintiff and held that plaintiff was ready and willing to perform his part of the contract.

I do not find any illegality or irregularity in the findings recorded by the Courts below which may give rise to any substantial question of law in second appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

March 13, 2007
**mohinder*